



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

April 8, 2014

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Second District

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Third District

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MICHAEL D. ANTONOVICH
Fifth District

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name of the Chief Executive Officer.

SACRAMENTO UPDATE

Executive Summary

This memorandum contains a report on legislative measures relating to vacancies in the State Legislature or in the United States Congress and to provide reimbursement to counties for conducting special elections.

Overview

The California Constitution requires the Governor to call a special election when a vacancy occurs in either house of the Legislature or in the U.S. Congress. From 1993 through 2007, the State provided reimbursement to counties for the costs of conducting special elections; however, this provision of law expired on January 1, 2008. In this Legislative Session, several measures have been introduced that attempt to alleviate the cost burden that special vacancy elections pose to counties. This report includes information on: 1) a proposed constitutional amendment that would require the Governor to fill legislative vacancies by appointment; 2) measures that would require the State to reimburse counties for costs associated with conducting special elections; and 3) legislation that would authorize counties to conduct special elections entirely by mail.

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Filling Legislative Vacancies By Gubernatorial Appointment

Under current law, a special election to fill a vacancy must be: 1) called by the Governor within 14 calendar days of the vacancy; 2) conducted within 126 - 140 days following the Governor's proclamation; and 3) paid by the county in which the election is held.

SCA 16 (Steinberg), which as introduced on February 20, 2014, would place before voters a measure to amend the California Constitution to require the Governor to fill vacancies in either house of the Legislature by appointment. The measure, if enacted and approved by voters, would:

- require the Governor to make the appointment within 21 days of the vacancy;
- require the appointee to have the same political party preference as the vacating member;
- allow the vacating member's house to reject the appointment by a majority vote within 21 days of the appointment;
- allow appointees to take office at the end of the 21 days and to serve for the remainder of the term, except as noted below; and
- provide that for a Senate seat vacancy whose term does not end in the same year as the second year of the legislative session, the appointee shall not serve the remainder of the unexpired term. Instead, a special election would be held to fill the remainder of the unexpired term.

According to the author, in addition to reducing the taxpayer funded cost of special elections, SCA 16 would ensure full representation in each house of the Legislature in the event of a legislative vacancy. The author's office reports that over the last four years, 18 statewide vacancies have led to over 2,000 cumulative days of lost representation in the Legislature. The Registrar Recorder/County Clerk (RR/CC) concurs and reports that a vacancy can take up to 140 days to fill by special election, leaving a district unrepresented during that time. Further, vacancies in the Senate are often filled by Assembly Members (or vice versa), which usually results in subsequent vacancies and the need to conduct another special election.

The Registrar-Recorder/County-Clerk is supportive of this measure, noting that if enacted and approved by voters, SCA 16 would substantially reduce the number of special elections the County would need to fund. In 2013 alone, according to RR/CC,

the County spent an estimated \$12.0 million to conduct six special vacancy elections. The RR/CC reports that over the past few years they have succeeded in their efforts to make elections more cost-effective; however, election costs have increased due to cost-of-living increases, greater costs for voting system maintenance, expanded access to early voting options, and continually changing regulatory requirements. According to RR/CC, special election costs can be further compounded if a special run-off election is needed following the primary.

Additionally, Registrar-Recorder/County-Clerk reports that they continue County-wide efforts to encourage voter participation; however, voter turnout for special elections held in the last few years has been critically low, averaging 20 percent voter turnout. Of the 16 special elections held from 2008 through 2013 in the County, seven had voter turnouts of less than 10 percent. In these cases, the cost per voter was exponentially higher compared to an election with a better voter turnout. Finally, RR/CC reports that currently 25 states fill vacancies by some form of appointment process, including 11 states that do so by gubernatorial appointment. Current law allows the Governor to fill a State vacancy to the U.S. Senate by appointment.

Early opposition comments on SCA 16 relate to concerns such as: 1) that gubernatorial appointments would limit the ability of constituents to elect a direct representative for the remainder of an expired term; 2) the vacancy appointments as provided by SCA 16 would be used to maintain or shift control of power in either house of the Legislature; and 3) the measure needs to ensure transparency, accountability and inclusion for voters.

The Registrar-Recorder/County-Clerk recommends a support position on SCA 16; however, there is no existing Board-approved policy related to filling State office vacancies by gubernatorial appointment. Therefore, a position on SCA 16 is a matter for Board policy determination.

SCA 16 is opposed by the Urban Counties Caucus. There currently is no registered support on file. This measure is scheduled for hearing in the Senate Elections and Constitutional Amendments Committee on April 22, 2014.

This bill requires two-thirds approval of the Legislature. If enacted, it is anticipated that the initiative would appear on the November 2014 General Election ballot for voter consideration.

Special Elections Reimbursement Legislation

Existing law provides that expenses authorized and necessarily incurred in the preparation and administration of special elections are to be paid from county treasuries, except when called and paid by the governing body of a city. The Legislature is currently considering three measures, including **County-sponsored AB 2273 (Ridley-Thomas)**, regarding special election reimbursement.

County-sponsored AB 2273 (Ridley-Thomas), which as introduced on February 21, 2014, would require the State, beginning on January 2013, to reimburse counties for conducting legislative and congressional special elections. This measure is scheduled to be heard in the Assembly Appropriations Committee on April 9, 2014.

SB 942 (Vidak), which as introduced on February 4, 2014, would require the State to reimburse counties for legislative and congressional special elections conducted from January 1, 2008 through December 31, 2014. This measure was placed in the Senate Appropriations Suspense File on April 7, 2014.

SB 963 (Torres), which as introduced on February 6, 2014, would require the State, beginning on January 2013, to reimburse counties for conducting legislative and congressional special elections. This measure was placed in the Senate Appropriations Suspense File on April 7, 2014.

The Registrar-Recorder/County-Clerk reports that in addition to the \$12.0 million spent in 2013, the County spent \$16.0 million to conduct 10 special vacancy elections from 2008 through 2011. The bills above would require the State to provide reimbursement to counties for conducting special elections as existing law currently requires for filling vacancies of State and Federal offices. The RR/CC notes that under State reimbursement for special elections, the formulas formerly used by the State have remained unchanged since 1993 and do not provide full cost reimbursement to cover County costs.

AB 2273, SB 942 and SB 963 are supported by the California State Association of Counties; County of San Bernardino; County of San Diego; Sacramento County Board of Supervisors; and Urban Counties Caucus. There is no opposition on file.

These bills are substantially similar to **County-sponsored SB 141 of 2011**, which would have reinstated the State's reimbursement commitment to local governments as previously reflected in AB 37 (Chapter 39, Statutes of 1993), and subsequently enacted legislation, which provided reimbursement to counties for the costs incurred to conduct special elections from 1993 through 2007. SB 141 failed to pass the Senate.

All-Mail Special Elections Legislation

Current law allows for special elections to be conducted as an all-mail ballot election in restricted circumstances, such as when a limited number of voters are eligible to participate. The following measures would expand the use of vote-by-mail ballots.

AB 1873 (Gonzalez), which as introduced on February 19, 2014, would allow counties to conduct legislative and congressional special elections wholly by mail. The bill would also allow a municipal election to be conducted as an all-mail ballot election.

AB 2028 (Mullin), which as introduced on February 20, 2014, would authorize counties to conduct legislative and congressional special elections wholly by mail.

According to the authors, all-mail ballot elections are notably less costly for local agencies to conduct.

There currently is no registered opposition or support on file for these bills. AB 1873 and AB 2028 are scheduled to be heard in the Assembly Elections and Redistricting Committee on May 6, 2014.

This office will work with the Registrar-Recorder/County Clerk to closely monitor these measures and will continue to keep the Board apprised of any developments.

WTF:RA
MR:VE:PC:ma

c: All Department Heads
Legislative Strategist
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